IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 1399 of 2005

Haldiram Vitta and Viniyog Pvt. Ltd. & Anr .. Petitioners
V/s.
The Commissioner of Income Tax, VII- Mumbai & Ors. .. Respondents

Mr. K.P. Sreeji i/b. M/s. Sreeji & Lal for the Petitioners
Mr. A.S. Rao with Mr. E.P. Chopra for the Respondents

CORAM : S. RADHAKRISHNAN &
J.H. BHATIA, JJ.
DATED : 30.06.2005.

P.C.:-

1. Heard the learned counsel for the Petitioners and the Respondents.

2. By this Petition, the Petitioners are challenging the order dated 30th March, 2005 passed by the Commissioner of Income Tax VIII, Mumbai, under Section 127(2) of the Income Tax Act, 1961. There is no dispute that the Petitioners were given a prior show cause notice and thereafter the impugned order came to be passed. The show cause notice is dated 11th March, 2005. The show cause notice clearly indicates that the raid had taken place with regard to Haldiram Bhujiyawala Group and Kasana Foods (P) Ltd., who were interconnected and during the search and seizure operation materials were seized and on verification of details the Income Tax authorities found that it would be proper to centralize with ACIT, Central Circle 2(2), Nagpur for coordinate investigation. Accordingly show

cause notice was issued to the Petitioners to file objection, if any with regard to the proposed transfer/centralization of the cases. After hearing the Petitioners fully the CIT-VIII, Mumbai by an order dated 30.3.2005 found that the Petitioners also belonged to Haldiram Bhujiyawala Group and that search under section 132 of the I.T. Act has been conducted in the group of cases on 20.1.2005 and to facilitate coordinated and detailed investigation in the group of cases, centralization of the cases with the ACIT, Central Circle 2(2) was necessary.

3. Learned counsel for the Petitioners sought to rely on the judgment of the Calcutta High Court, reported in **1997 TAX L.R. 328 (Chotanagpur Industrial Gases (P) Ltd. Vs. Commissioner of Income Tax).** In the said case no grounds or reasons for the proposed transfer of cases were indicated in the show cause notice, and in view thereof the Calcutta High Court had interfered. In the present case in view of the material disclosed during the search it was felt that it was necessary to centralize the investigation at Nagpur. The above reason has been disclosed in the show cause notice. Therefore, the aforesaid decision will be of no help to the Petitioners. Personal inconvenience of an assessee cannot override a public interest necessitating such

transfer and as such the aforesaid centralization of investigation at Nagpur cannot be faulted with. There

is no dispute that the Petitioners are in fact having manufacturing activities as well as their office at Nagpur. Under these circumstances, we do not find any illegality or perversity in the aforesaid order. Hence the Petition stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)